


EXHIBIT "A"

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, TOLD AT DOTTED LINE
CERTIFIED MAIL



9171 9690 0935 0114 9285 32

NEOPOST FIRST-CLASS MAIL
03/24/2017
USPS POSTAGE \$005.26⁹
 ZIP 18503
041L11256172

McDONALD & MacGREGOR, LLC
Scranton Life Building
538 Spruce Street - Suite 320
Scranton, PA 18503

 **United States Postal Service**
DELIVERY CONFIRMATION



9114 9690 0935 0022 2420 60

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Delaware & Hudson Railway Company, Inc.
c/o CT Corporation System
111 8th Avenue
New York, NY 10011



McDonald & MacGregor, LLC

Michael J. McDonald, Esq.*
Malcolm L. MacGregor, Esq.

Scranton Life Building
538 Spruce Street, Suite 320
Scranton, Pennsylvania 18503

June A. Franchak
Dylan T. MacGregor
Wendy M. Sikorski

Telephone: (570) 209-7062
Facsimile: (570) 209-7294

March 23, 2017

9171 9690 0935 0114 9285 32

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

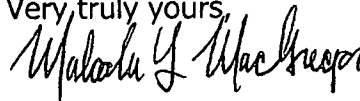
Delaware & Hudson Railway Company, Inc.
c/o CT Corporation System
111 8th Avenue
New York, NY 10011

RE: Richard A. Maietta and Claire Maietta, His Wife vs. Michele L. Malski, CP Rail Systems Corp., Canadian Pacific Railway, Individually and d/b/a CP Rail Systems Corp., Delaware & Hudson Railway Company, Inc. d/b/a Canadian Pacific Railway a/k/a CP Rail System, D & H Railroad d/b/a Delaware & Hudson Railway Company, Inc. and Delaware & Hudson Railway Company, Inc. Court of Common Pleas of Susquehanna County No. 2017 – 332 CP

Dear Sir/Madam:

Enclosed please find a Praeipce for Writ of Summons and Summons in Civil Action commencing a lawsuit against you on behalf of Richard Maietta and Claire Maietta. I would urge you to turn this letter over to your counsel and/or insurance carrier and ask that they contact me at their earliest possible convenience. By this correspondence, we are formally serving you with this Summons thereby tolling the applicable statute of limitations on such claims.

Very truly yours,



Malcolm L. MacGregor

MLM/jf
Enclosure

COPY

McDonald & MacGregor, LLC

By: Malcolm L. MacGregor, Esquire
Attorney ID: 58625
538 Spruce Street - Suite 310
Scranton, PA 18503
(570) 209-7062

Attorney for Plaintiff

.....
RICHARD A. MAIETTA and
CLAIRE MAIETTA, his wife,
285 Hathaway Street
Wallington, NJ 07057,

Plaintiffs

vs.

MICHELE L. MALSKI
600 Gladiola Drive
Clarks Summit, PA 18411
and/or
2109 Mill Road
Apt. 118
Alexandria, VA 22314-5322

CP RAIL SYSTEMS CORP
200 Clifton Corporate Parkway
Clifton Park, NY 12065

CANADIAN PACIFIC RAILWAY,
Individually and d/b/a CP RAIL
SYSTEMS CORP
200 Clifton Corporate Parkway
Clifton Park, NY 12065
and/or
3 Depot Street
Taylor, PA 18517

DELAWARE & HUDSON RAILWAY
COMPANY, INC. d/b/a CANADIAN
PACIFIC RAILWAY a/k/a CP RAIL
SYSTEM
200 Clifton Corporate Parkway
Clifton Park, NY 12065
and/or
200 Clifton Corporate Parkway
P.O. Box 8002
Clifton Park, NY 12065

IN THE COURT OF COMMON PLEAS
OF SUSQUEHANNA COUNTY

CIVIL ACTION – LAW
JURY TRIAL DEMANDED

2017-332 CP

PROthonotary

2017 MAR 16 PM 4:24

FILED
SUSQUEHANNA COUNTY

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and/or
3 Depot Street
Taylor, PA 18517

D & H RAILROAD d/b/a DELAWARE
& HUDSON RAILWAY COMPANY, INC.
200 Clifton Corporate Parkway
Clifton Park, NY 12065

and/or
3 Depot Street
Taylor, PA 18517

DELAWARE & HUDSON RAILWAY
COMPANY, INC.
c/o CT Corporation System
111 8th Avenue
New York, NY 10011

and/or
c/o CT Corporation System
1515 Market Street, Suite 1210
Philadelphia, PA 19102-1932,

Defendants :

NO. 332 CV 2017

PROTHONOTARY

2017 MAR 16 PM 4:24

FILED
SUSQUEHANNA COUNTY

PRAECIPE FOR WRIT OF SUMMONS

TO THE PROTHONOTARY OF SUSQUEHANNA COUNTY:

Issue Summons in the above civil case.

X Writ of Summons shall be issued and forwarded to the Sheriff.

McDONALD & MacGREGOR, LLC

By: Malcolm L. MacGregor
Malcolm L. MacGregor, Esquire
538 Spruce Street, Suite 320
Scranton, PA 18503
570-209-7062
Attorney for Plaintiffs

Date: March 16, 2017

McDonald & MacGregor, LLC

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(570) 209-7062

Attorney for Plaintiff

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CLAIRE MAIETTA, his wife, :
285 Hathaway Street :
Wallington, NJ 07057, :
Plaintiffs :

vs.

MICHELE L. MALSKI :
600 Gladiola Drive :
Clarks Summit, PA 18411 :
and/or :
2109 Mill Road :
Apt. 118 :
Alexandria, VA 22314-5322 :

CP RAIL SYSTEMS CORP :
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Taylor, PA 18517 :
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D & H RAILROAD d/b/a DELAWARE :
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DELAWARE & HUDSON RAILWAY :
COMPANY, INC. :
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111 8th Avenue :
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1515 Market Street, Suite 1210 :
Philadelphia, PA 19102-1932, :
Defendants : NO. CV 2017

SUMMONS IN CIVIL ACTION

TO: MICHELE L. MALSKI
600 Gladiola Drive
Clarks Summit, PA 18411

MICHELE L. MALSKI
2109 Mill Road
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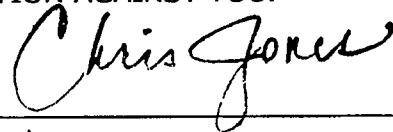
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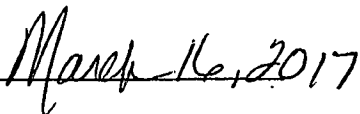
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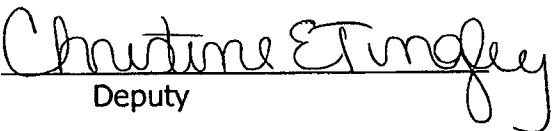
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THE PLAINTIFFS HAVE COMMENCED AN ACTION AGAINST YOU.



Prothonotary

Date: 

By: 
Deputy

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APR 03 2017

March 23, 2017

D&H CLAIMS

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RETURN RECEIPT REQUESTED

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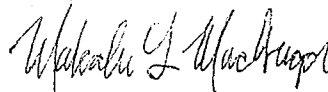
CP Rail Systems Corp.
200 Clifton Corporate Parkway
Clifton Park, NY 12065

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D&H CLAIMS

McDonald & MacGregor, LLC

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538 Spruce Street - Suite 310
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Attorney for Plaintiff

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IN THE COURT OF COMMON PLEAS
OF SUSQUEHANNA COUNTY

CIVIL ACTION – LAW
JURY TRIAL DEMANDED

2017-332 CP

FILED
SUSQUEHANNA COUNTY
2017 MAR 16 PM 1:23
PROthonotary

and/or
3 Depot Street
Taylor, PA 18517

D & H RAILROAD d/b/a DELAWARE
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COMPANY, INC.

c/o CT Corporation System
111 8th Avenue
New York, NY 10011

and/or
c/o CT Corporation System
1515 Market Street, Suite 1210
Philadelphia, PA 19102-1932,

Defendants :

NO. 332 CV 2017 CP

PROTHONOTARY

2017 MAR 16 PM 4:29

FILED
SUSQUEHANNA COUNTY

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570-209-7062
Attorney for Plaintiffs

Date: March 16, 2017

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2017-332 CR

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Defendants :

NO. 332 CV 2017 CP

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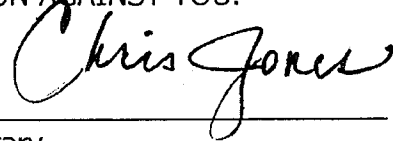
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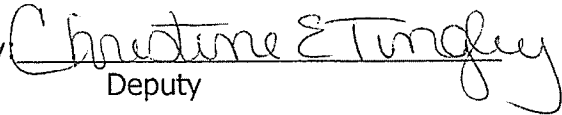
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1515 Market Street, Suite 1210
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THE PLAINTIFFS HAVE COMMENCED AN ACTION AGAINST YOU.



Prothonotary

Date: March 17, 2017

By 
Deputy



NEOPOST
03/24/2017
USPS MAIL
\$005.26
ZIP 18503
041111256172

McDONALD & MacGREGOR, LLC
Scranton Life Building
538 Spruce Street - Suite 320
Scranton, PA 18503

CP-200

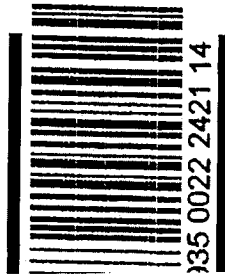
CERTIFIED MAIL
RETURN RECEIPT REQUESTED

CP Rail Systems Corp.

55 Glenham Ave
Scranton NY 18506

es Postal Service
CONFIRMATION

Label 314, July 2000



[Handwritten signature]

LN
4/3/17

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

CERTIFIED MAIL™



9171 9690 0935 0114 9285 70

NEOPOST

03/24/2017

US POSTAGE \$005.26



ZIP 18503
041L11256172

McDONALD & MacGREGOR, LLC
Scranton Life Building
538 Spruce Street – Suite 320
Scranton, PA 18503

(Handwritten signature)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Canadian Pacific Railway, Individually
and d/b/a CP Rail Systems Corp.
200 Clifton Corporate Parkway
Clifton Park, NY 12065

1ST NOTICE
2ND NOTICE

CANA200* 061 D4C 1 317C8603/29/17
NOTIFY SENDER OF NEW ADDRESS
CANADIAN PACIFIC
55 GLENHAM AVE
SARATOGA SPGS NY 12866-6023
BC: 12866602355 0060N088134-00571

CV
4/3/17

ed States Postal Service

VERY CONFIRMATION

Label 314, July 2009



9690 0935 0022 2421 07

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS FOLD AT DOTTED LINE
CERTIFIED MAIL™



9171 9690 0935 0114 9285 94

NEOPOST
03/24/2017
US POSTAGE
\$005.262
ZIP 18503
0411126172

McDONALD & MacGREGOR, LLC
Scranton Life Building
538 Spruce Street -Suite 320
Scranton, PA 18503

e United States Postal Service
DELIVERY CONFIRMATION

Label 014, July 2000



9114 9690 0935 0022 2421 21

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Michele L. Malski
2109 Mill Road, Apt. 118
Alexandria, VA 22314-5322

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June A. Franchak
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Telephone: (570) 209-7062
Facsimile: (570) 209-7294

March 23, 2017

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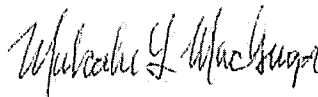
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PROCEEDINGS

2017 MAR 15 PM 4:21

SUSQUEHANNA COUNTY

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P.O. Box 8002
Clifton Park, NY 12065

IN THE COURT OF COMMON PLEAS
OF SUSQUEHANNA COUNTY

2017-33 CP

CIVIL ACTION – LAW
JURY TRIAL DEMANDED

and/or :
3 Depot Street :
Taylor, PA 18517 :

D & H RAILROAD d/b/a DELAWARE :
& HUDSON RAILWAY COMPANY, INC. :
200 Clifton Corporate Parkway :
Clifton Park, NY 12065 :

and/or :
3 Depot Street :
Taylor, PA 18517 :

DELAWARE & HUDSON RAILWAY :
COMPANY, INC. :
c/o CT Corporation System :
111 8th Avenue :
New York, NY 10011 :

and/or :
c/o CT Corporation System :
1515 Market Street, Suite 1210 :
Philadelphia, PA 19102-1932, :

Defendants :

NO. 332 CV 2017 CP

SUMMONS IN CIVIL ACTION

TO: MICHELE L. MALSKI
600 Gladiola Drive
Clarks Summit, PA 18411

MICHELE L. MALSKI
2109 Mill Road
Apt. 118
Alexandria, VA 22314-5322

CP RAIL SYSTEMS CORP
200 Clifton Corporate Parkway
Clifton Park, NY 12065

CANADIAN PACIFIC RAILWAY,
Individually and d/b/a CP RAIL
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1515 Market Street, Suite 1210
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THE PLAINTIFFS HAVE COMMENCED AN ACTION AGAINST YOU.

Chris Jones

Prothonotary

Date: 3/16/2017

By: *[Signature]*
Deputy

McDonald & MacGregor, LLC

By: Malcolm L. MacGregor, Esquire
Attorney ID: 58625
538 Spruce Street - Suite 310
Scranton, PA 18503
(570) 209-7062

Attorney for Plaintiff

.....
RICHARD A. MAIETTA and
CLAIRE MAIETTA, his wife,
285 Hathaway Street
Wallington, NJ 07057,

Plaintiffs

vs.

MICHELE L. Malski
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Clarks Summit, PA 18411
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IN THE COURT OF COMMON PLEAS
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2017-332 CP

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2017-332 CP
PROCEEDING
FILED

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1515 Market Street, Suite 1210
Philadelphia, PA 19102-1932,

Defendants :

NO. 330 CV 2017

PRAECIPE FOR WRIT OF SUMMONS

TO THE PROTHONOTARY OF SUSQUEHANNA COUNTY:

Issue Summons in the above civil case.

X Writ of Summons shall be issued and forwarded to the Sheriff.

McDONALD & MacGREGOR, LLC

By: Malcolm L. MacGregor
Malcolm L. MacGregor, Esquire
538 Spruce Street, Suite 320
Scranton, PA 18503
570-209-7062
Attorney for Plaintiffs

Date: March 16, 2017

McDonald & MacGregor, LLC

By: Malcolm L. MacGregor, Esquire
Attorney ID: 58625
538 Spruce Street - Suite 310
Scranton, PA 18503
(570) 209-7062

Attorney for Plaintiff

.....
RICHARD A. MAIETTA and :
CLAIRE MAIETTA, his wife, :
285 Hathaway Street :
Wallington, NJ 07057, :
Plaintiffs :

IN THE COURT OF COMMON PLEAS
OF SUSQUEHANNA COUNTY

vs.

CIVIL ACTION – LAW
JURY TRIAL DEMANDED

MICHELE L. MALSKI :
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Clarks Summit, PA 18411 :
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Alexandria, VA 22314-5322 :

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Clifton Park, NY 12065 :

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NO. 332 CV 2017

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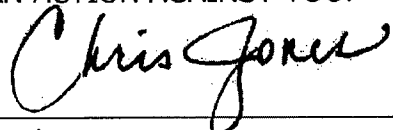
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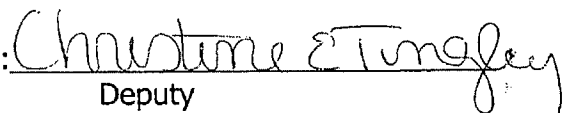
DELAWARE & HUDSON RAILWAY
COMPANY, INC.
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1515 Market Street, Suite 1210
Philadelphia, PA 19102-1932

THE PLAINTIFFS HAVE COMMENCED AN ACTION AGAINST YOU.



Prothonotary

Date: March 16, 2017

By: 

Deputy

and/or
3 Depot Street
Taylor, PA 18517

D & H RAILROAD d/b/a DELAWARE
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McDONALD & MacGREGOR, LLC

By: Malcolm L. MacGregor
Malcolm L. MacGregor, Esquire
538 Spruce Street, Suite 320
Scranton, PA 18503
570-209-7062
Attorney for Plaintiffs

Date: March 16, 2017

McDonald & MacGregor, LLC

By: Malcolm L. MacGregor, Esquire
Attorney ID: 58625
538 Spruce Street - Suite 310
Scranton, PA 18503
(570) 209-7062

Attorney for Plaintiff

RICHARD A. MAIETTA and
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285 Hathaway Street
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IN THE COURT OF COMMON PLEAS
OF SUSQUEHANNA COUNTY

2017-332 CP

CIVIL ACTION – LAW
JURY TRIAL DEMANDED

FILED
2017 JUL 24 PM 4:00
CLERK OF COURT
SUSQUEHANNA COUNTY

McDonald & MacGregor, LLC

By: Malcolm L. MacGregor, Esquire

Attorney ID: 58625

538 Spruce Street - Suite 310

Scranton, PA 18503

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Attorney for Plaintiff

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CIVIL ACTION – LAW
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THE PLAINTIFFS HAVE COMMENCED AN ACTION AGAINST YOU.

Chris Jones

Prothonotary

Date: *March 16, 2017*

By: *Christine E. Tongue*
Deputy

McDonald & MacGregor, LLC

By: Malcolm L. MacGregor, Esquire
Attorney ID: 58625
538 Spruce Street - Suite 310
Scranton, PA 18503
(570) 209-7062

Attorney for Plaintiff

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IN THE COURT OF COMMON PLEAS
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2017-332 CP

CIVIL ACTION – LAW
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FILED
2017 AUG 15 PM 4:15
PROCTOR, JR., CLERK

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570-209-7062
Attorney for Plaintiffs

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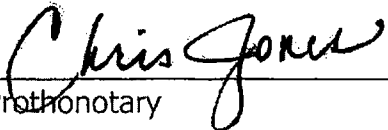
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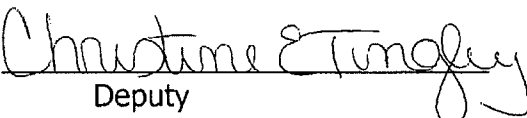
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Prothonotary

Date: March 16, 2017

By: 
Deputy

Dickie, McCamey & Chilcote, P.C.

By: J. Lawson Johnston, Esquire

Attorney ID: 19792

Scott D. Clements, Esquire

Attorney ID: 78529

Two PPG Place, Suite 400

Pittsburgh, PA 15222

(412) 281-7272

.....
RICHARD A. MAIETTA and : IN THE COURT OF COMMON PLEAS
CLAIRE MAIETTA, his wife, : OF SUSQUEHANNA COUNTY
:
Plaintiffs, : CIVIL ACTION – LAW
: JURY TRIAL DEMANDED
:
v. : NO. 332 CV 2017 CP
:
MICHELE L. MALSKI; CP RAIL SYSTEMS :
CORP.; CANADIAN PACIFIC RAILWAY, :
Individually and d/b/a CP RAIL SYSTEMS :
CORP.; DELAWARE & HUDSON RAILWAY :
COMPANY, INC. d/b/a Canadian Pacific :
Railway a/k/a CP Rail System; D&H :
RAILROAD d/b/a DELAWARE & HUDSON :
RAILWAY COMPANY, INC.; and :
DELAWARE & HUDSON RAILWAY :
COMPANY, INC., :
:
Defendants. :


PRAECIPE FOR ENTRY OF APPEARANCE

To: PROTHONOTARY

Kindly enter the appearance of J. Lawson Johnston and Scott D. Clements, as counsel for Michele L. Malski and Delaware and Hudson Railway Company, Inc. d/b/a Canadian Pacific, Defendants in the above matter.

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By: 
J. Lawson Johnston, Esquire
Scott D. Clements, Esquire

Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402
(412) 281-7272

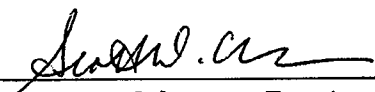
Counsel for Defendants,
Michele L. Malski and Delaware and
Hudson Railway Company, Inc. d/b/a
Canadian Pacific, incorrectly identified
as CP Rail Systems Corp., Canadian
Pacific Railway, Individually and d/b/a
CP Rail Systems Corp., Delaware &
Hudson Railway Company, Inc. d/b/a
Canadian Pacific Railway a/k/a CP Rail
System, and D&H Railroad d/b/a
Delaware & Hudson Railway Company,
Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Praecept for Entry of Appearance has been served by mailing a copy, United States mail, first class, postage prepaid, this 17th day of April, 2017, to the following:

Malcolm L. MacGregor, Esquire
McDonald & MacGregor, LLC
538 Spruce Street, Suite 320
Scranton, PA 18503

DICKIE, McCAMEY & CHILCOTE, P.C.

By: 
J. Lawson Johnston, Esquire
Scott D. Clements, Esquire

Counsel for Defendants,
Michele L. Malski and Delaware and
Hudson Railway Company, Inc. d/b/a
Canadian Pacific.

Dickie, McCamey & Chilcote, P.C.

By: J. Lawson Johnston, Esquire

Attorney ID: 19792

Scott D. Clements, Esquire

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RICHARD A. MAIETTA and

CLAIRE MAIETTA, his wife,

Plaintiffs,

v.

MICHELE L. MALSKI; CP RAIL SYSTEMS

CORP.; CANADIAN PACIFIC RAILWAY,

Individually and d/b/a CP RAIL SYSTEMS

CORP.; DELAWARE & HUDSON RAILWAY

COMPANY, INC. d/b/a Canadian Pacific

Railway a/k/a CP Rail System; D&H

RAILROAD d/b/a DELAWARE & HUDSON

RAILWAY COMPANY, INC.; and

DELAWARE & HUDSON RAILWAY

COMPANY, INC.,

Defendants.

: IN THE COURT OF COMMON PLEAS
: OF SUSQUEHANNA COUNTY
:

: CIVIL ACTION – LAW
: JURY TRIAL DEMANDED
:

: NO. 332 CV 2017 CP
:

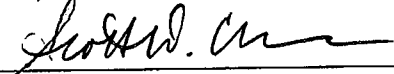
PRAECIPE FOR RULE TO FILE COMPLAINT

To: Prothonotary

Please enter a Rule against the Plaintiffs to file a Complaint against the Defendants within twenty (20) days hereof or suffer the entry of a Judgment of Non Pros.

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By: 

J. Lawson Johnston, Esquire

Scott D. Clements, Esquire

Two PPG Place, Suite 400

Pittsburgh, PA 15222-5402

(412) 281-7272

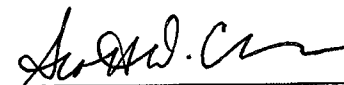
Counsel for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **PRAECIPE FOR RULE TO FILE COMPLAINT** has been served on this 18th day of April, 2017, by U. S. first-class mail, postage prepaid, to the following:

Malcolm L. MacGregor, Esquire
McDonald & MacGregor, LLC
538 Spruce Street, Suite 320
Scranton, PA 18503

DICKIE, McCAMEY & CHILCOTE, P.C.

By: 

J. Lawson Johnston, Esquire
Scott D. Clements, Esquire

Counsel for Defendants

RICHARD A. MAIETTA and
CLAIRE MAIETTA, his wife,

Plaintiffs,

v.

MICHELE L. MALSKI; CP RAIL SYSTEMS
CORP.; CANADIAN PACIFIC RAILWAY,
Individually and d/b/a CP RAIL SYSTEMS
CORP.; DELAWARE & HUDSON RAILWAY
COMPANY, INC. d/b/a Canadian Pacific
Railway a/k/a CP Rail System; D&H
RAILROAD d/b/a DELAWARE & HUDSON
RAILWAY COMPANY, INC.; and
DELAWARE & HUDSON RAILWAY
COMPANY, INC.,

Defendants.

IN THE COURT OF COMMON PLEAS
OF SUSQUEHANNA COUNTY

CIVIL ACTION – LAW
JURY TRIAL DEMANDED

NO. 332 CV 2017 CP

RULE TO FILE COMPLAINT

AND NOW, this _____ day of April, 2017, a Rule is hereby GRANTED upon
Plaintiffs to file a Complaint herein against Defendants within twenty (20) days after
service hereof or suffer the entry of a Judgment of Non Pros.

By: _____
Prothonotary

By: _____
Deputy

COPY

RICHARD A. MAIETTA and
CLAIRE MAIETTA, his wife,

Plaintiffs,

v.

MICHELE L. MALSKI; CP RAIL SYSTEMS
CORP.; CANADIAN PACIFIC RAILWAY,
Individually and d/b/a CP RAIL SYSTEMS
CORP.; DELAWARE & HUDSON RAILWAY
COMPANY, INC. d/b/a Canadian Pacific
Railway a/k/a CP Rail System; D&H
RAILROAD d/b/a DELAWARE & HUDSON
RAILWAY COMPANY, INC.; and
DELAWARE & HUDSON RAILWAY
COMPANY, INC.,

Defendants.

IN THE COURT OF COMMON PLEAS
OF SUSQUEHANNA COUNTY

CIVIL ACTION - LAW
JURY TRIAL DEMANDED

NO. 332 CV 2017 CP

RULE TO FILE COMPLAINT

AND NOW, this 26th day of April, 2017, a Rule is hereby GRANTED upon
Plaintiffs to file a Complaint herein against Defendants within twenty (20) days after
service hereof or suffer the entry of a Judgment of Non Pros.

By: _____

Chris Jones
Prothonotary

By: _____

Christine E. Tingley
Deputy

Dickie, McCamey & Chilcote, P.C.

By: J. Lawson Johnston, Esquire
 Attorney ID: 19792
 Scott D. Clements, Esquire
 Attorney ID: 78529

Two PPG Place, Suite 400
 Pittsburgh, PA 15222
 (412) 281-7272

.....	:	
RICHARD A. MAIETTA and	:	IN THE COURT OF COMMON PLEAS
CLAIRE MAIETTA, his wife,	:	OF SUSQUEHANNA COUNTY
	:	
Plaintiffs,	:	CIVIL ACTION - LAW
	:	JURY TRIAL DEMANDED
v.	:	
	:	NO. 332 CV 2017 CP
MICHELE L. MALSKI; CP RAIL SYSTEMS	:	
CORP.; CANADIAN PACIFIC RAILWAY,	:	
Individually and d/b/a CP RAIL SYSTEMS	:	
CORP.; DELAWARE & HUDSON RAILWAY	:	
COMPANY, INC. d/b/a Canadian Pacific	:	
Railway a/k/a CP Rail System; D&H	:	
RAILROAD d/b/a DELAWARE & HUDSON	:	
RAILWAY COMPANY, INC.; and	:	
DELAWARE & HUDSON RAILWAY	:	
COMPANY, INC.,	:	
	:	
Defendants.	:	

AFFIDAVIT OF SERVICE OF RULE TO FILE COMPLAINT

I, Scott D. Clements, Esquire, do hereby provide this Affidavit, under oath, and in support of the following facts:

1. I am counsel of record for Defendants in this case.
2. On May 2, 2017, I sent a letter to Plaintiff's counsel Malcolm L. MacGregor, by certified mail, return receipt requested, serving him with the original "Rule to File Complaint," which I had obtained from the Court pursuant to Praeceptum in this matter. (A true and correct copy of the May 2, 2017 letter is attached hereto and marked "Exhibit 1.")

3. I received back from the United States Postal Service the green, return receipt card, evidencing receipt of the certified mail on May 5, 2017. (A true and correct copy of the green, return receipt card is attached hereto and marked "Exhibit 2").

4. This Affidavit is being supplied in support of the Rule to File Complaint, the original of which was served on May 2, 2017.

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

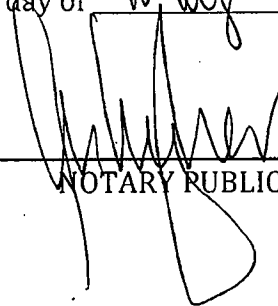
By: 
Scott D. Clements, Esquire

Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402
(412) 281-7272

Counsel for Defendants

Sworn to and subscribed before me this

18th day of May, 2017.


NOTARY PUBLIC

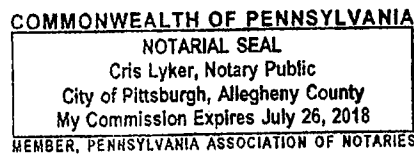


EXHIBIT 1



Scott D. Clements
Attorney at Law
Admitted in PA, NY, WV

412-392-5484
Fax: 888-811-7144
sclements@dmclaw.com

May 2, 2017

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Malcolm L. MacGregor, Esquire
McDonald & MacGregor, LLC
Scranton Life Building
538 Spruce Street, Suite 320
Scranton, PA 18503

RE: Richard and Claire Maietta v. Michele L. Malski, et al.
Case No. 332 CV 2017 CP (Susquehanna County, PA)
Our File No.: 0055546.0359822

Dear Mr. MacGregor:

Enclosed please find the Rule to File Complaint issued by the Prothonotary on April 26, 2017.

Thank you for your attention to this matter.

Sincerely,



A handwritten signature in black ink, appearing to read "Scott D. Clements", written over a horizontal line.

Scott D. Clements

SDC\smj
Enclosure

5634931.1

EXHIBIT 2

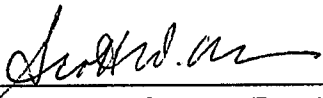
SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY													
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>X</p>													
<p>1. Article Addressed to:</p>	<p>B. Received by (Printed Name)</p> <p><i>Wendy M...</i></p>	<p>C. Date of Delivery</p> <p><i>5-5-17</i></p>												
<p>Malcolm MacGregor, Esq. McDonald MacGregor, LLC Scranton Life Building 538 Spruce Street, Suite 320 Scranton, PA 18503</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>													
<p> 9590 9402 1802 6074 6084 68</p>	<div style="text-align: center;">  </div> <p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> </table>		<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®													
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™													
<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery													
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<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™													
<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery													
<p>2. Article Number (Transfer from service label)</p> <p>7016 0910 0000 4095 3449</p>														
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt</p>														

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing
AFFIDAVIT OF SERVICE OF RULE TO FILE COMPLAINT has been served on this 18th day
of May, 2017, by U. S. first-class mail, postage prepaid, to the following:

Malcolm L. MacGregor, Esquire
McDonald & MacGregor, LLC
538 Spruce Street, Suite 320
Scranton, PA 18503

DICKIE, McCAMEY & CHILCOTE, P.C.

By: 

J. Lawson Johnston, Esquire
Scott D. Clements, Esquire

Counsel for Defendants

.....	:	IN THE COURT OF COMMON PLEAS
RICHARD A. MAIETTA and	:	OF SUSQUEHANNA COUNTY
CLAIRE MAIETTA, his wife,	:	
	:	CIVIL ACTION – LAW
Plaintiffs,	:	JURY TRIAL DEMANDED
	:	
v.	:	NO. 332 CV 2017 CP
	:	
MICHELE L. MALSKI; CP RAIL SYSTEMS	:	
CORP.; CANADIAN PACIFIC RAILWAY,	:	
Individually and d/b/a CP RAIL SYSTEMS	:	
CORP.; DELAWARE & HUDSON RAILWAY	:	
COMPANY, INC. d/b/a Canadian Pacific	:	
Railway a/k/a CP Rail System; D&H	:	
RAILROAD d/b/a DELAWARE & HUDSON	:	
RAILWAY COMPANY, INC.; and	:	
DELAWARE & HUDSON RAILWAY	:	
COMPANY, INC.,	:	
	:	
Defendants.	:	

NOTICE OF PRAECIPE TO ENTER JUDGMENT OF NON PROS

To: Richard A. Maietta and Claire Maietta
c/o Malcolm L. MacGregor, Esquire
McDonald & MacGregor, LLC
Scranton Life Building
538 Spruce Street, Suite 320
Scranton, PA 18503

Date of Notice: June 16, 2017

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO FILE A COMPLAINT IN THIS CASE. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR RIGHT TO SUE THE DEFENDANT AND THEREBY LOSE PROPERTY OR OTHER IMPORTANT RIGHTS.

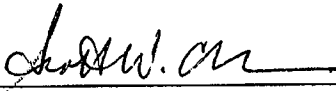
YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICE TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Susquehanna County Prothonotary
P.O. Box 218
105 Maple Street
Montrose, PA 18801
(570) 278-4600

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By: 

J. Lawson Johnston, Esquire
PA 19792
Scott D. Clements, Esquire
PA 78529

Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402
(412) 281-7272

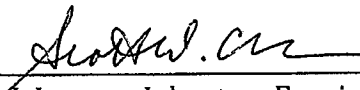
Counsel for Defendants,
Michele L. Malski and Delaware and
Hudson Railway Company, Inc. d/b/a
Canadian Pacific, incorrectly identified
as CP Rail Systems Corp., Canadian
Pacific Railway, Individually and d/b/a
CP Rail Systems Corp., Delaware &
Hudson Railway Company, Inc. d/b/a
Canadian Pacific Railway a/k/a CP Rail
System, and D&H Railroad d/b/a
Delaware & Hudson Railway Company,
Inc.

CERTIFICATE OF SERVICE

I, Scott D. Clements, Esq., hereby certify that a true and correct copy of the foregoing **Notice of Praeipie to Enter Judgment of Non Pros** has been served by U. S. Mail, first-class, postage prepaid, this 16th day of June, 2017, to the following:

Malcolm L. MacGregor, Esquire
McDonald & MacGregor, LLC
538 Spruce Street, Suite 320
Scranton, PA 18503

DICKIE, McCAMEY & CHILCOTE, P.C.

By: 
J. Lawson Johnston, Esquire
Scott D. Clements, Esquire

Counsel for Defendants,
Michele L. Malski and Delaware and
Hudson Railway Company, Inc. d/b/a
Canadian Pacific.

COPY

McDonald & MacGregor, LLC

By: Malcolm L. MacGregor, Esquire
Attorney ID: 58625
538 Spruce Street - Suite 310
Scranton, PA 18503
(570) 209-7062

Attorney for Plaintiff

.....
RICHARD A. MAIETTA and
CLAIRE MAIETTA, his wife,
Plaintiffs

IN THE COURT OF COMMON PLEAS
OF SUSQUEHANNA COUNTY

vs.

CIVIL ACTION – LAW

MICHELE L. MALSKI,
CP RAIL SYSTEMS CORP,
CANADIAN PACIFIC RAILWAY,
Individually and d/b/a CP RAIL
SYSTEMS CORP,
DELAWARE & HUDSON RAILWAY
COMPANY, INC. d/b/a CANADIAN
PACIFIC RAILWAY a/k/a CP RAIL
SYSTEM,
D & H RAILROAD d/b/a DELAWARE
& HUDSON RAILWAY COMPANY, INC.
DELAWARE & HUDSON RAILWAY,
COMPANY, INC.,

Defendants

JURY TRIAL DEMANDED

NO. 2017-332 CP

FILED
SUSQUEHANNA COUNTY
2017 JUL -5 PM 2:10
NOTICE OF FILING

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claim set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

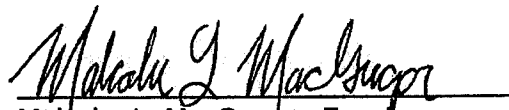
IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED RATE OR NO FEE.

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
Telephone: 1-800-692-7375

Northern PA Legal Services, Inc.
507 Main Street
Towanda, PA 18848
Telephone: (877) 515-7732

Susquehanna County Bar Association
181 Maple Street
Montrose, PA 18801
Telephone: (570) 278-3741

Susquehanna County Prothonotary Office
Susquehanna County Courthouse
105 Maple Street
P.O. Box 218
Montrose, PA 18801
Telephone: (570) 278-4600 x 120


Malcolm L. MacGregor, Esquire
Attorney for Plaintiffs

COPY

McDonald & MacGregor, LLC

By: Malcolm L. MacGregor, Esquire
Attorney ID: 58625
538 Spruce Street - Suite 310
Scranton, PA 18503
(570) 209-7062

Attorney for Plaintiff

.....
RICHARD A. MAIETTA and
CLAIRE MAIETTA, his wife,
Plaintiffs

IN THE COURT OF COMMON PLEAS
OF SUSQUEHANNA COUNTY

vs.

CIVIL ACTION – LAW

MICHELE L. MALSKI,
CP RAIL SYSTEMS CORP,
CANADIAN PACIFIC RAILWAY,
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DELAWARE & HUDSON RAILWAY
COMPANY, INC. d/b/a CANADIAN
PACIFIC RAILWAY a/k/a CP RAIL
SYSTEM,
D & H RAILROAD d/b/a DELAWARE
& HUDSON RAILWAY COMPANY, INC.
DELAWARE & HUDSON RAILWAY,
COMPANY, INC.,

Defendants

JURY TRIAL DEMANDED

NO. 2017-332 CP

FILED
SUSQUEHANNA COUNTY
2017 JUL -5 PM 2:10
PROthonotary

CIVIL ACTION COMPLAINT

AND NOW, come the Plaintiffs, Richard A. Maietta and Claire Maietta, his wife, by and through their counsel, Malcolm L. MacGregor, Esquire, of the law firm of McDonald & MacGregor, LLC, and hereby files the within Complaint and respectfully avers as follows, in support thereof:

1. Plaintiffs, Richard A. Maietta and Claire Maietta, are adult citizens and residents of the State of New Jersey, residing therein at 285 Hathaway Street, Wallington, Bergen County, New Jersey, 07057.

2. Defendant, Michele L. Malski, (hereinafter referred to as "Defendant Malski") is, upon information and belief, and currently, an adult citizen and resident of the State of Virginia, residing therein at 2109 Mill Road, Apartment 118, Alexandria, Fairfax County, Virginia, 22314, formerly believed to be an adult citizen and resident of the Commonwealth of Pennsylvania at the time of the incident giving rise to this action, residing therein at 600 Gladiola Drive, Clarks Summit, Lackawanna County, Pennsylvania, 18411.

3. CP Rail Systems Corp. (hereinafter collectively referred to a "Defendant Railway") is, upon information and belief, a Delaware corporation with its principal place of business located at 200 Clifton Corporate Parkway, Clifton Park, New York, 12065.

4. Canadian Pacific Railway, Individually and d/b/a CP Rail Systems Corp. (hereinafter collectively referred to a "Defendant Railway") is, upon information and belief, a Delaware corporation with its principal place of business located at 200 Clifton Corporate Parkway, Clifton Park, New York, 12065.

5. Delaware & Hudson Railway Company, Inc. d/b/a Canadian Pacific Railway a/k/a CP Rail System, (hereinafter collectively referred to a "Defendant Railway") is, upon information and belief, a Delaware corporation with its principal place of business located at 200 Clifton Corporate Parkway, Clifton Park, New York, 12065.

6. D & H Railroad d/b/a Delaware & Hudson Railway Company, Inc. (hereinafter collectively referred to a "Defendant Railway") is, upon information and belief, a Delaware corporation with its principal place of business located at 200 Clifton Corporate Parkway, Clifton Park, New York, 12065.

7. Delaware & Hudson Railway Company, Inc. (hereinafter collectively referred to a "Defendant Railway") is, upon information and belief, a Delaware corporation with an address of c/o CT Corporation 1515 Market Street, Suite 1210, Philadelphia, PA 19102 and its principal place of business located at 200 Clifton Corporate Parkway, Clifton Park, New York, 12065.

8. On or about March 18, 2015, at approximately 7:43 A.M., Plaintiff, Richard A. Maietta was operating a black 2013 Hino Hino 268, owned by his employer, Meyer Logistics, Inc., lawfully traveling South on Interstate 81, at or near mile marker 218, in Harford Township, Susquehanna County, Pennsylvania.

9. On or about March 18, 2015, at approximately 7:43 A.M., Defendant, Malski, was operating a white 2006 Dodge Dakota, bearing New York registration number 58530JV, owned by her employer, Defendant Railway, traveling North on Interstate 81, at or near mile marker 218, in Harford Township, Susquehanna County, Pennsylvania.

10. On or about March 18, 2015, at approximately 7:43 A.M., Interstate 81 at or near mile marker 218 in Harford Township, Susquehanna County, Pennsylvania, was a four-laned, paved asphalt roadway with a center-dividing grass median splitting the northbound and southbound lanes, having a posted speed limit of sixty-five (65) miles per hour.

11. At the aforementioned date, time and place, Plaintiff, Richard A. Maietta, was lawfully traveling in the left southbound lane passing through an active crash investigation zone at a restricted speed, when Defendant Malski, traveling in the right

northbound lane, suddenly and without warning, negligently and carelessly, lost control of her vehicle, swerved in a northwest direction leaving the northbound lanes of Interstate 81, crossed the grass-covered median, entered the southbound lanes of Interstate 81 airborne, and crashed her vehicle into the driver side door and pillar of the vehicle in which Plaintiff was occupying, without justification or excuse, causing a violent collision and the serious and severe injuries set forth herein.

12. At all times relevant hereto, Plaintiff, Richard A. Maietta, was in the exercise of due care and caution for his own safety.

13. The aforementioned accident was caused by the careless and negligent conduct on the part of the Defendant and was not due in any manner or by any act or failure to act on the part of the Plaintiff who was a passenger, rather than an operator, of the vehicle in question.

COUNT I

RICHARD A. MAIETTA

v.

MICHELE L. MALSKI

NEGLIGENCE

14. The allegations of paragraphs one through thirteen are incorporated herein as though fully set forth at length.

15. The careless and negligent conduct on the part of the Defendant, Michele L. Malski, consisted of one or more of the following:

- a. operating her vehicle in a careless disregard for the lives and property of others, specifically, Plaintiff, Richard A. Maietta, in violation of 75 Pa.C.S.A. §3714;

- b. operating her vehicle in violation of 75 Pa.C.S.A. §3301(a) in that she failed to operate her vehicle on the right side of the roadway;
- c. operating her vehicle in violation of 75 Pa.C.S.A. §3311(a)(b) in that she attempted to cross an unauthorized portion of a divided roadway;
- d. operating her vehicle in violation of 75 Pa.C.S.A. §3309(1)(2) in that a vehicle driving on roadways laned for traffic must not be moved from the lane until the driver has first ascertained that the movement can be made with safety;
- e. operating her vehicle in violation of 75 Pa.C.S.A. §3361 in that she drove her vehicle at a speed greater than is reasonable and prudent under the conditions, failed to drive at a safe and appropriate speed when approaching and crossing an intersection, approaching and going around a winding roadway and/or curve, and traveling at a speed greater than reasonable given the special hazards existing therein;
- f. failing to have the vehicle she was operating under proper and adequate control at the time of the accident;
- g. failing to keep her vehicle in the northbound lanes of Interstate 81, crossing the grass covered median, negligently entering the southbound lanes of Interstate 81, and violently crashing into the Plaintiff's vehicle;
- h. failing to apply her brakes in time to avoid the collision;
- i. failing to observe the vehicle in which Plaintiff occupied lawfully on the roadway in open and plain view;
- j. failing to operate her vehicle in accordance with existing traffic conditions and traffic controls;
- k. permitting or causing her vehicle to violently strike and collide into with the vehicle occupied by Plaintiff;
- l. failing to exercise the high degree of care required of a motorist traveling upon a roadway;
- m. failing to properly observe traffic controls governing the Defendant's direction of travel on the roadway;

- n. failing to keep a reasonable look-out for other vehicles lawfully on the road, specifically, the vehicle occupied by the Plaintiff;
- o. carelessly attempting to enter a roadway when such movement could not be safely accomplished;
- p. failing to yield the right-of-way to traffic already upon the roadway;
- q. failing to observe oncoming traffic;
- r. carelessly proceeding onto the roadway without regard for oncoming traffic when such movement could not be made safely;
- s. failing to keep a proper and continuing lookout for approaching vehicles;
- t. operating the vehicle so as to create a dangerous situation for other vehicles on the roadway;
- u. failing to maintain her vehicle in a proper manner;
- v. negligently and carelessly entering the Plaintiff's lane of travel causing said violent collision;
- w. failing to have her vehicle under proper and adequate control;
- x. permitting or causing her vehicle to strike and collide with the vehicle occupied by the Plaintiff;
- y. failing to keep a proper lookout and see the vehicle in which Plaintiff occupied lawfully traveling south on Interstate 81, prior to the collision;
- z. failing to use her horn to warn the Plaintiff of the impending collision;
- aa. failing to take timely evasive action under the circumstances;
- bb. operating her vehicle negligently and carelessly without due regard for the rights and safety of the Plaintiff;
- cc. crashing her vehicle into the vehicle in which Plaintiff occupied without justification or excuse;
- dd. diverting her attention away from oncoming traffic in front of her and

causing the collision;

- ee. operating her vehicle while using a GPS device in such a manner as to be viewing the GPS screen for such an unreasonable length of time that defendant's attention was completely diverted from the roadway yet defendant continued to operate her vehicle without keeping a proper and continuing lookout, thereby disregarding the safety of other motorists upon the roadway, including the Plaintiff, Richard A. Maietta;
- ff. operating her vehicle while distracted by her cellular phone and/or engaging in a phone call which defendant knew or should have known is dangerous and careless in that such conduct compromises one's attentiveness, reaction time, and ability to operate a motor vehicle in a safe and proper fashion, and creates an unreasonable risk of injury or damage to others.

16. As a direct and proximate result of the negligence and/or careless acts and/or admissions of Defendant Malski, as alleged herein, Plaintiff, Richard A. Maietta, has suffered serious and severe personal injuries and impairment of body function, including, but not limited to, injuries to his, head, neck, shoulders, arms, back, lower extremities, nerves and nervous system, psychological disorders including post-traumatic stress disorder, severe anxiety, and severe depression as a result of witnessing Defendant Malski's vehicle become airborne heading straight toward his vehicle, and other injuries, as well as aggravation, activation, exacerbation of pre-existing conditions, among other severe injuries, to the nerves, bones, muscles and tissues of the lower back, all of which he has been advised are or may be permanent in nature.

17. As a further result of this collision, Plaintiff, Richard A. Maietta, has been or will be obliged to receive and undergo medical attention and care and/or to expend

various sums of money and/or to incur various expenses which have and/or may exceed the sums recoverable under the limits in 75 P.S. §1711, and/or may be obligated to continue to expend such sums and/or incur such expenditures for an indefinite time in the future.

18. Plaintiff, Richard A. Maietta, has sustained a loss of income and earning capacity which is, and/or may be in excess of recoverable wage losses and he will continue to suffer such losses of income and/or earning capacity for an indefinite time into the future and/or permanently.

19. As a direct and proximate result of the aforementioned collision and negligent conduct on the part of Defendant Malski, Plaintiff, Richard A. Maietta, has suffered an inability to perform his usual daily activities and duties in addition to performing some of his usual daily activities and duties with great pain, and will continue to be so disabled for an indefinite period of time in the future and/or permanently.

20. As a direct and proximate result of the aforementioned collision and the negligent conduct on the part of Defendant Malski, Plaintiff, Richard A. Maietta, has suffered or incurred incidental losses and/or financial expenses beyond those which have been recovered and/or which may otherwise be recoverable and will continue to suffer such losses and damages for an indefinite period of time into the future and/or permanently.

21. As a direct result of the negligence and carelessness of Defendant, Malski, as set forth herein, Plaintiff, Richard A. Maietta, has sustained serious personal

injuries resulting in the impairment of bodily functions, as well as physical pain, suffering, mental anguish, emotional distress, embarrassment, humiliation, the loss of the ability to enjoy life's pleasures and inconvenience, and will continue to endure the same for an indefinite time in the future, all to his great detriment and loss.

22. At all times relevant hereto, Plaintiff, Richard A. Maietta, was in the exercise of due care and caution for his own safety.

23. The aforementioned incident was caused by the negligent and careless conduct on the part of Defendant, Michele L. Malski, and was not due in any way or manner or by the act or failure to act on the part of the Plaintiff, Richard A. Maietta.

WHEREFORE, Plaintiff, Richard A. Maietta, claims damages from the Defendant, Michele L. Malski, in an amount in excess of Fifty Thousand Dollars (\$50,000.00), plus interest and costs.

COUNT II

RICHARD A. MAIETTA

v.

CP RAIL SYSTEMS CORP, CANADIAN PACIFIC RAILWAY, Individually and d/b/a CP RAILS SYSTEMS CORP, DELAWARE & HUDSON RAILWAY COMPANY, INC. d/b/a CANADIAN PACIFIC RAILWAY a/k/a CP RAIL SYSTEM, D & H RAILROAD d/b/a DELAWARE & HUDSON RAILWAY COMPANY, INC., and, DELAWARE & HUDSON RAILWAY COMPANY, INC.

(COLLECTIVELY REFERRED TO AS "DEFENDANT RAILWAY")

NEGLIGENT ENTRUSTMENT

24. Plaintiffs hereby incorporates by reference paragraphs one through twenty-three, as though fully set forth at length herein.

25. The negligent or careless acts and/or omissions of Defendant Railway, consisted of the following:

- a) Violating 75 Pa. C.S.A. §1574 pertaining to permitting unauthorized persons to drive;
- b) Authorizing use of the motor vehicle to another operator for use when they knew and/or within reasonable exercise or due care, should have known, that on the date of the accident, the operator was incompetent, inexperienced, medically unable, and/or otherwise incapable of safely and/or properly operating said vehicle;
- c) Authorizing use of the motor vehicle to another person, creating an appreciable risk of harm to all others, including the Plaintiff, Richard A. Maietta;
- d) Authorizing use of the motor vehicle to a person which they knew or in the exercise of reasonable care, should have known was going to drive the vehicle in an improper, dangerous and/or careless manner;
- e) Authorizing or permitting a third person to drive and/or operate a motor vehicle owned by Defendant Railway when they knew or should have known that such a person was likely to use the vehicle and/or conduct herself in driving the motor vehicle in such a manner as to create an unreasonable risk of harm to others then driving on the roadway, such as the Plaintiff, Richard A. Maietta, in violation of the Restatement (2nd) of Torts, §308;
- f) Negligently entrusting a motor vehicle to an individual Defendant Railway knew or should have known was incapable of operating said motor vehicle in a safe and lawful manner;
- g) Negligently allowing Defendant Malski to continue to operate a motor vehicle when they knew or should have known her medical history and conditions made it unsafe for her to do so;
- h) All other such negligent and careless acts related to negligent entrustment of the vehicle in question as may be revealed during the course of discovery.

26. As a direct and proximate result of the negligence and/or careless acts and/or admissions of Defendant Malski, as alleged herein, Plaintiff, Richard A. Maietta, has suffered serious and severe personal injuries and impairment of body function, including, but not limited to, injuries to his, head, neck, shoulders, arms, back, lower extremities, nerves and nervous system, psychological disorders including post-traumatic stress disorder, severe anxiety, and severe depression as a result of witnessing Defendant Malski's vehicle become airborne heading straight toward his vehicle, and other injuries, as well as aggravation, activation, exacerbation of pre-existing conditions, among other severe injuries, to the nerves, bones, muscles and tissues of the lower back, all of which he has been advised are or may be permanent in nature.

27. As a further result of this collision, Plaintiff, Richard A. Maietta, has been or will be obliged to receive and undergo medical attention and care and/or to expend various sums of money and/or to incur various expenses which have and/or may exceed the sums recoverable under the limits in 75 P.S. §1711, and/or may be obligated to continue to expend such sums and/or incur such expenditures for an indefinite time in the future.

28. Plaintiff, Richard A. Maietta, has sustained a loss of income and earning capacity which is, and/or may be in excess of recoverable wage losses and he will continue to suffer such losses of income and/or earning capacity for an indefinite time into the future and/or permanently.

29. As a direct and proximate result of the aforementioned collision and

negligent conduct on the part of Defendant Railway, Plaintiff, Richard A. Maietta, has suffered an inability to perform his usual daily activities and duties in addition to performing some of his usual daily activities and duties with great pain, and will continue to be so disabled for an indefinite period of time in the future and/or permanently.

30. As a direct and proximate result of the aforementioned collision and the negligent conduct on the part of Defendant Railway, Plaintiff, Richard A. Maietta, has suffered or incurred incidental losses and/or financial expenses beyond those which have been recovered and/or which may otherwise be recoverable and will continue to suffer such losses and damages for an indefinite period of time into the future and/or permanently.

31. As a direct result of the negligence and carelessness of Defendant, Railway, as set forth herein, Plaintiff, Richard A. Maietta, has sustained serious personal injuries resulting in the impairment of bodily functions, as well as physical pain, suffering, mental anguish, emotional distress, embarrassment, humiliation, the loss of the ability to enjoy life's pleasures and inconvenience, and will continue to endure the same for an indefinite time in the future, all to his great detriment and loss.

32. At all times relevant hereto, Plaintiff, Richard A. Maietta, was in the exercise of due care and caution for his own safety.

33. The aforementioned incident was caused by the negligent and careless conduct on the part of Defendant Railway, and was not due in any way or manner or by the act or failure to act on the part of the Plaintiff, Richard A. Maietta.

7
WHEREFORE, Plaintiff, Richard A. Maietta, claims damages from the Defendant Railway in an amount in excess of Fifty Thousand Dollars (\$50,000.00), plus interest and costs.

COUNT III

CLAIRE MAIETTA

VS.

MICHELE L. Malski (REFERRED TO AS "DEFENDANT Malski") and CP RAIL SYSTEMS CORP, CANADIAN PACIFIC RAILWAY, Individually and d/b/a CP RAILS SYSTEMS CORP, DELAWARE & HUDSON RAILWAY COMPANY, INC. d/b/a CANADIAN PACIFIC RAILWAY a/k/a CP RAIL SYSTEM, D & H RAILROAD d/b/a DELAWARE & HUDSON RAILWAY COMPANY, INC., and, DELAWARE & HUDSON RAILWAY COMPANY, INC.

(COLLECTIVELY REFERRED TO AS "DEFENDANT RAILWAY")

LOSS OF CONSORTIUM

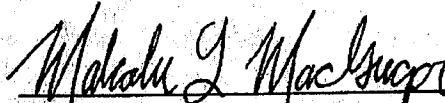
34. Plaintiff, Claire Maietta, hereby incorporates by reference paragraphs one through thirty-three, as though fully set forth at length herein.

35. At all times and relevant hereto, Plaintiff, Claire Maietta, is and was the wife of the Plaintiff, Richard A. Maietta.

36. As a direct result of the negligent and careless acts and/or omissions, of Defendant Malski and Defendant Railway, as set forth herein, the same resulting in injuries to her husband, as described herein, Plaintiff, Claire Maietta, has been deprived of the assistance, society and/or consortium of her husband, Plaintiff, Richard A. Maietta, all to her great detriment and loss.

WHEREFORE, Plaintiff, Claire Maietta, demands judgment in her favor and against Defendant Malski and Defendant Railway, together with interest, cost and delay damages in an amount in excess of Fifty Thousand (\$50,000.00), plus interest and costs.

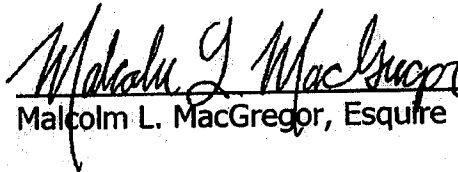
Respectfully submitted,
McDONALD & MacGREGOR, LLC

A handwritten signature in black ink, appearing to read "Malcolm L. MacGregor", is written over a horizontal line.

Malcolm L. MacGregor, Esquire
PA Attorney I.D. # 58625
Scranton Life Building
538 Spruce Street, Suite 320
Scranton, PA 18503
T: (570) 209-7062

VERIFICATION

I, Malcolm L. MacGregor, Esquire, hereby verifies that the plaintiff is unavailable at the present time but has authorized the undersigned, as his counsel, to execute the Verification on their behalf, and that the statements made in the foregoing Complaint are true and correct based upon my personal knowledge, information, and belief. I understand that false statements herein contained are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.


Malcolm L. MacGregor, Esquire

COPY

McDonald & MacGregor, LLC

By: Malcolm L. MacGregor, Esquire
Attorney ID: 58625
538 Spruce Street - Suite 310
Scranton, PA 18503
(570) 209-7062

Attorney for Plaintiff

.....
RICHARD A. MAIETTA and
CLAIRE MAIETTA, his wife,
Plaintiffs

IN THE COURT OF COMMON PLEAS
OF SUSQUEHANNA COUNTY

vs.

MICHELE L. MALSKI,
CP RAIL SYSTEMS CORP,
CANADIAN PACIFIC RAILWAY,
Individually and d/b/a CP RAIL
SYSTEMS CORP,
DELAWARE & HUDSON RAILWAY
COMPANY, INC. d/b/a CANADIAN
PACIFIC RAILWAY a/k/a CP RAIL
SYSTEM,
D & H RAILROAD d/b/a DELAWARE
& HUDSON RAILWAY COMPANY, INC.
DELAWARE & HUDSON RAILWAY,
COMPANY, INC.,

CIVIL ACTION – LAW

JURY TRIAL DEMANDED

Defendants : NO. 2017-332 CP

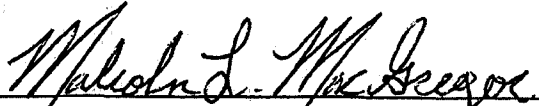
FILED
SUSQUEHANNA COUNTY
2017 JUL -5 PM 2:10
PROthonotary

CERTIFICATE OF SERVICE

AND NOW, this 5th day of July, 2017, I, Malcolm L. MacGregor, Esquire, of the law firm of McDonald & MacGregor, LLC, hereby certify that I have this date forwarded the foregoing Civil Action Complaint, by emailing and depositing the same in the United States Mail, postage prepaid, at Scranton, Pennsylvania, addressed as follows:

Scott D. Clements, Esquire
Dickie, McCamey & Chilcote, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402
[Attorney for Defendants]

[sclements@dmclaw.com]


Malcolm L. MacGregor, Esquire
Attorney for Plaintiffs